

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

LUNDES GARRETT, :
Plaintiff : CIVIL ACTION NO. 3:20-1196
v. : (JUDGE MANNION)
DOUGLAS G. LOMBARDI, et al., :
Defendants :

ORDER

Presently before the court is the Report and Recommendation ("Report") of Magistrate Judge William I. Arbuckle. (Doc. 8). Judge Arbuckle previously granted the plaintiff Lundes Garrett's motion to proceed *in forma pauperis* and conducted a preliminary review of the *pro se* Complaint pursuant to 28 U.S.C. §1915A. Although Judge Arbuckle determined that the court lacked jurisdiction over Garrett's claims, Garrett was granted an opportunity to amend his Complaint. Garrett did so by filing an Amended Complaint on September 3, 2020. (Doc. 7). Upon screening Garrett's Amended Complaint in his present Report, Judge Arbuckle concludes that the Amended Complaint must be dismissed without further leave to amend. No objections to the Report have been filed.

Even where no objection is made, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in

order to accept the recommendation." Fed.R.Civ.P.72(b) advisory committee notes; see also *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa.2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir.1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); M.D.Pa. Local Rule 72.31.

In his Report, Judge Arbuckle determines that Garrett has failed to plead a plausible claim under the CARES Act since the moratorium on evictions applies only to "covered" properties and Garrett has not pleaded facts to show that the property he is renting is a "covered" property. Judge Arbuckle next observes that Garrett has failed to state a claim under the Federal Debt Collection Practices Act ("FDCPA") since Garrett has not sufficiently alleged that his landlord, Defendant Lombardi, was a debt collector under the FDCPA.

Finally, Judge Arbuckle recommends that the court decline to exercise supplemental jurisdiction over Garrett's remaining state law claims because the balance of applicable factors, including judicial economy, convenience, fairness, and comity, indicate they properly belong in state court. As a result,

the Report recommends that the court dismiss the state law claims without prejudice.

Because Garrett was previously granted leave to amend, and because he has not requested further leave to amend, the Report finds no basis to *sua sponte* recommend it a second time. Accordingly, Judge Arbuckle recommends dismissal of the Amended Complaint without further leave to amend.

The court has conducted a thorough review of all pertinent filings and finds the Report of Judge Arbuckle to be well-reasoned and well-supported. As such, the court will adopt the report in its entirety as the decision of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) Judge Arbuckle's Report, (Doc. 8), is ADOPTED IN ITS ENTIRETY;**
- (2) Garrett's Amended Complaint, (Doc. 7), is DISMISSED without further leave to amend; and**
- (3) The Clerk of Court is directed to CLOSE THIS CASE.**

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: April 29, 2021

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